

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YESENIA FRANCISCO,

Plaintiff,

-against-

ANSWER

THE BOARD OF EDUCATION OF THE CITY
SCHOOL DISTRICT OF THE CITY OF NEW YORK,

08-CV-03723(GEL)

Defendant.

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Defendant Board of Education of the City School District of the City of New York (“Board of Education” or “BOE”) (also known as the “New York City Department of Education”), by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its Answer to the Complaint, respectfully alleges as follows:

1. Denies the allegations set forth in paragraph “1” of the Complaint, except denies knowledge or information sufficient to form a belief as to the truth of the allegation concerning plaintiff’s residence.
2. Denies the allegations set forth in the paragraph “2” of the Complaint, except admits the defendant BOE exists under the laws of the State of New York and has offices in the County of New York.
3. Denies the allegations set forth in paragraph “3” of the Complaint, except admits that plaintiff purports to invoke the jurisdiction of this Court as set forth therein.
4. Denies the allegations set forth in paragraph “4” of the Complaint, except admits that plaintiff purports to proceed as set forth therein.

5. Denies the allegations set forth in paragraph "5" of the Complaint, except admits that plaintiff was employed as a teacher assigned to P.S. 65K, in the years 2003-2006.

6. Denies the allegations set forth in paragraph "6" of the Complaint.

7. Denies the allegations set forth in the remainder of paragraph "7" of the Complaint except denies knowledge and information sufficient to form a belief as to the truth of the allegations set forth in the first sentence of paragraph "7" of the Complaint.

8. Denies the allegations set forth in paragraph "8" of the Complaint.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "9" of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "10" of the Complaint.

11. Denies the allegations set forth in paragraph "11" of the Complaint.

12. Denies the allegations set forth in paragraph "12" of the Complaint, except admits that plaintiff returned to work in February 2006.

13. Denies the allegations set forth in paragraph "13" of the Complaint.

14. Denies the allegations set forth in paragraph "14" of the Complaint.

15. Denies the allegations set forth in paragraph "15" of the Complaint.

16. Denies the allegations set forth in paragraph "16" of the Complaint.

17. Denies the allegations set forth in paragraph "17" of the Complaint.

18. Denies the allegations set forth in paragraph "18" of the Complaint.

19. Denies the allegations set forth in paragraph "19" of the Complaint.

FOR A FIRST DEFENSE:

20. The Complaint fails to state a claim upon which relief can be granted in whole or in part.

FOR A SECOND DEFENSE:

21. Upon information and belief, plaintiff's claim for front and back pay are barred by her failure to mitigate damages.

FOR AN FOURTH DEFENSE:

22. At all times relevant to the acts alleged in the Complaint, defendant acted in conformity with all applicable laws, rules, and regulations, and any actions taken with respect to plaintiff were for legitimate, nondiscriminatory business reasons.

FOR AN FIFTH DEFENSE:

23. This action is barred by the applicable statute of limitations, in whole or in part.

WHEREFORE, defendant respectfully requests that this Court enter an order dismissing the Complaint in its entirety, denying all relief requested therein, entering judgment for defendant and granting defendant costs, fees, and disbursements together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
June 5, 2008

MICHAEL A. CARDODOZO
Corporation Counsel of the
City of New York
Attorney for Defendant
100 Church Street, Room 2-143
New York, New York 10007
(212) 788-1328
jfriedma@law.nyc.gov

By: _____ /s/
Jason Friedman (JF4755)
Assistant Corporation Counsel

To: **By ECF**
Stewart Lee Karlin, Esq.
Attorney for Plaintiff
9 Murray Street, Suite 4W
New York, NY 10007(212) 732-9450

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**DEFENDANT'S ANSWER TO THE
COMPLAINT**

MICHAEL A. CARDOZO

Corporation Counsel of the City of New York
Attorney for Defendant
100 Church Street, Rm 2-143
New York, N.Y. 10007-2601

Of Counsel: Jason Friedman
Tel: (212) 788-1328
Matter No. 2008-013912

Due and timely service is hereby admitted.

New York, N.Y., 200 . . .

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Attorney for.....